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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the matter of)	
)	
Review of the Commission's Regulations)	MM Docket No. 91-221
Governing Television Broadcasting)	
)	MM Docket No. <u>87-8</u>
Television Satellite Stations Review of)	
Policy and Rules)	

To: The Commission

PETITION FOR RECONSIDERATION

Entravision Holdings, LLC ("Entravision"), the licensee of television broadcast stations throughout the United States, by and through its attorneys and pursuant to Section 1.429 of the Commission's Rules and Regulations, hereby timely petitions the Commission to reconsider its decision in the *Memorandum Opinion and Second Order on Reconsideration*, FCC 00-431, released January 19, 2001 ("MO&O"), in the above-referenced proceeding.¹ In support thereof, Entravision states as follows:

1. As the current and future licensee of television broadcast stations that may be affected by the recent revision of the Local Television Multiple Ownership Rule ("TV duopoly rule"), Entravision has a keen interest in the results of this MO&O. Entravision is concerned that the Commission's desire to redefine Designated Market Areas (DMAs) by use of the post-combination eight station "floor" and the related requirement of Grade B signal contour overlap may be misinterpreted and inconsistently enforced, and thus have an adverse effect on the noted

¹ The MO&O was published in the *Federal Register* on February 6, 2001. See MO&O, 66 Fed. Reg. 9039 (2001).

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efficiencies² created by duopolies in a market. Specifically, the Commission failed to fully articulate the resultant impact of the Key West example, discussed in Paragraph 16 of the *MO&O*, on the competitive landscape of large DMAs. See *MO&O* at ¶¶ 16-19.

2. In the Key West example, the Commission was concerned with the possible anomalous result of applying the TV duopoly rule in large DMAs. In that case, the Miami-Ft. Lauderdale DMA consists of 14 independent full-power TV stations, two of which are licensed to Key West, Florida. The Commission, for purposes of clarifying the eight station “floor,” decided that “only those stations whose Grade B signal contour overlaps with at least one of the stations in the proposed combination” would be counted. *MO&O* at ¶ 17. As a result, a single owner wishing to own the only two TV stations serving Key West would not be able to count the 12 remaining stations in Miami, so that a single entity could only own one of the Key West stations.

3. However, in doing so, the Commission failed to address the underlying implications of making such a distinction between the Key West stations and the Miami stations. The intent of the TV duopoly rule is to strike a balance between competition and diversity concerns with the resultant efficiencies created by duopolies in television broadcast markets. Likewise, the requirement of an eight station “floor” is intended to afford adequate competition within a DMA. By adding the additional requirement that the eight station “floor” can only consist of those stations with Grade B signal contour overlap, the Commission, in effect, redefined the boundaries

² The Commission has previously recognized that joint ownership creates “significant efficiencies and public service benefits.” *Report and Order*, 14 FCC Rcd 12903, 12904 (1999). In the context of the radio ownership rules and Sections 202(a) and (b) of the Telecommunications Act of 1996, Congress also concluded that joint ownership would “result in an increase in the number of radio broadcast stations in operation,” a consequential benefit to the public and to competition.

of large DMAs, like the Miami-Ft. Lauderdale DMA, into sub-DMAs — a Key West sub-DMA and a Miami sub-DMA.

4. To the extent the Commission concedes that the Key West stations and the Miami stations truly do not compete for viewership and advertising dollars, and therefore do not constitute independent “voices” to each other’s viewers, Entravision submits that a single owner should be permitted to own, in large DMA markets such as the Miami-Ft. Lauderdale DMA, two stations in the principal market (i.e., Miami) and one in the minor market (i.e., Key West).³

MO&O at ¶ 16. Competition and diversity interests would not be sacrificed here and the efficiencies created by the duopoly would, in turn, be fully realized, since the two sub-markets, as the Commission indicates, do not compete with each other.


5. Therefore, consistent with the change in the counting of stations for the eight-station rule, the TV duopoly rule should be modified so as to apply to each sub-DMA independently. The net result is that, given the context of a large DMA, a single entity would be permitted to own two television stations within a sub-DMA, so long as one of the two stations is not “ranked among the top four stations in the DMA” and at least “eight broadcast TV stations remain in the market post-combination,” and own one television station in another sub-DMA. *MO&O* at ¶¶ 10, 14.

³ “We explained that DMAs reflect actual viewing patterns, and define the ‘market’ in a manner that is widely accepted and used by the advertising and broadcasting industries.” *MO&O* at ¶ 9. The Commission in Paragraph 16 of the *MO&O* acknowledges that the Key West stations are incapable of reaching the Miami area because of the 120-mile distance between the two. As such, advertisers looking to target the Miami-Ft. Lauderdale DMA will presumably seek to advertise in the Miami area in order to maximize coverage. The presence of the Key West stations, which are limited by distance, would not appear to constrain or apply downward pressure on the price of advertising spots in the Miami market nor vice versa. Key West is the functional equivalent of a captured or isolated market, and as such should not be aggregated to the Miami market for any of the TV duopoly rule purposes.

WHEREFORE, it is respectfully requested that the Commission reconsider its definition of television markets, in the context of large DMAs, for purposes of applying the Commission's TV duopoly rule.

Respectfully submitted,

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